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UNITED STATES DISTRICT COURT
EASTERN DISTRICT

PAMELA COLEMAN, an individual,

Plaintiff,

vs.

BOSTON SCIENTIFIC
CORPORATION, a Massachusetts
corporation, and DOE
MANUFACTURERS one through one
hundred,

Defendants.

Case No. 1:10-CV-01968-AWI-SKO

Mag. Judge: Hon. Sheila K. Oberto
Dept.: 3

**STIPULATION AND JOINT
REQUEST TO CONTINUE
SCHEDULING CONFERENCE
AND ORDER**

Complaint filed: 10/20/2010

Trial Date: None set

TO THE COURT AND ALL ATTORNEYS OF RECORD:

Plaintiff Pamela Coleman and Defendant Boston Scientific Corporation
("BSC"), by and through their counsel of record, stipulate to and jointly request a
continuance of the scheduling conference based on the following:

1 1. Plaintiff filed the complaint in this action on October 20, 2010 and BSC
2 was served with the complaint on or about December 29, 2010.

3 2. The Court set a scheduling conference for April 6, 2011. (Doc. No. 6.)

4 3. BSC filed a motion to dismiss the complaint on February 16, 2011.
5 (Doc. No. 9.) Pursuant to stipulation of the parties, the Court continued the
6 scheduling conference from April 6, 2011 to April 20, 2011 in light of BSC's pending
7 motion to dismiss. (Doc. No. 16.)

8 4. On April 11, 2011, the Court granted BSC's motion to dismiss with leave
9 to amend. (*See* Doc. No. 29.)

10 5. On April 12, 2011, the Court issued a minute order setting a scheduling
11 conference for July 22, 2011. (Doc. No. 26.)

12 6. Plaintiff filed a first amended complaint on June 17, 2011. (Doc. No.
13 31.) On July 7, 2011 BSC filed a motion to dismiss the first amended complaint and
14 the motion was set to be heard on August 15, 2011. (Doc. No. 34.)

15 7. On July 11, 2011, the parties stipulated to continue the scheduling
16 conference to August 26, 2011 to allow BSC's motion to dismiss to be heard prior to
17 the scheduling conference and the submission of the joint scheduling conference
18 statement. The Court issued an order granting the stipulation and setting the
19 scheduling Conference for August 26, 2011. (*See* Doc. Nos. 37, 38.)

20 8. On August 2, 2011, the Court issued a minute order continuing the
21 hearing on BSC's motion to dismiss from August 15, 2011 to August 22, 2011. On
22 August 16, 2011, pursuant to stipulation of the parties, the court continued the
23 scheduling conference from August 26, 2011 to October 20, 2011 in light of the new
24 hearing date for BSC's motion to dismiss. (Doc. No. 46.)

25 9. On August 22, 2011, the Court granted BSC's motion to dismiss the first
26 amended complaint with leave to amend. (Doc. No. 51.)

27 10. On September 21, 2011 the October 20 scheduling conference date was
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1 vacated due to the impending retirement of the Honorable Oliver W. Wanger. (*See*
2 Doc. No. 52.)

3 11. On September 26, 2011, Plaintiff filed her second amended complaint.
4 (Doc. No. 53.)

5 12. On October 24, 2011, the Court reset the scheduling conference to
6 November 22, 2011 before Magistrate Judge Sheila K. Oberto.

7 13. On October 24, 2011, the parties received notice this case had been
8 assigned to the Honorable Lawrence J. O'Neill. (Doc. No. 57.)

9 14. On October 26, 2011, BSC filed a motion to dismiss the second amended
10 complaint. (Doc. No. 58.) The motion was set for hearing on December 1, 2011
11 before the Honorable Lawrence J. O'Neill.

12 15. On November 2, 2011, this Court, pursuant to the parties' stipulation,
13 continued the scheduling conference to December 20, 2011 pending a ruling BSC's
14 motion to dismiss. (Doc. No. 60.) The parties' joint scheduling report would be due
15 on December 13, 2011.

16 16. On November 28, 2011, the Honorable Lawrence J. O'Neill issued a
17 minute order vacating the December 1 hearing date and taking BSC's motion to
18 dismiss the second amended complaint under submission.

19 17. On December 7, 2011, this Court, pursuant to the parties' stipulation,
20 continued the scheduling conference to January 26, 2012 pending a ruling on BSC's
21 motion to dismiss. (Doc. No. 68.) The Court also ordered that the parties' joint
22 scheduling report is due on or before January 19, 2012.

23 18. As of the filing of this stipulation, the Honorable Lawrence J. O'Neill has
24 not issued a ruling on BSC's motion to dismiss.

25 19. All parties have agreed and respectfully request that the scheduling
26 conference be continued to April 3, 2012, or to a date preferred by this Court, in order
27 for Defendants' Motion to Dismiss and Plaintiffs' Opposition thereto to be considered
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1 and ruled upon by the Court. The parties also request that their joint scheduling report
2 be due March 27, 2012.

3 20. There is good cause to continue the scheduling conference and the
4 submission of the joint scheduling conference statement until after the Honorable
5 Lawrence J. O'Neill issues a ruling on BSC's motion to dismiss.

6 IT IS HEREBY STIPULATED, subject to the approval of the Court, that the
7 scheduling conference currently set for January 26, 2012, be continued to April 3,
8 2012, or a date more convenient for the Court, and the parties' joint scheduling
9 conference statement be due on March 27, 2012.
10

11 Dated: January 9, 2012

Respectfully Submitted,
SHOOK, HARDY & BACON L.L.P.

14 By: /s/ Natasha L. Mosley
15 Natasha L. Mosley
16 Attorneys for Defendant
Boston Scientific Corporation

17 Dated: January 9, 2012

GIARDI KEESE

19 By: /s/ Amanda Kent
20 (authorized on January 6, 2012)
21 Thomas V. Girardi
22 Amy F. Solomon
23 Michael Kowsari
24 Amanda Kent
25 Attorneys for Plaintiff
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ORDER

Pursuant to the parties' Stipulation, the scheduling conference currently set for January 26, 2012, is hereby continued to April 3, 2012, at 9:30 a.m. The parties' Joint Scheduling Report shall be filed on or before March 27, 2012.

IT IS SO ORDERED.

Dated: January 9, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE